



**MEETING MINUTES**  
**Regular Meeting of the Edina Planning Commission**  
**Wednesday, June 30, 2010, 7:00 P.M.**  
**Edina City Hall Council Chambers**

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**MEMBERS PRESENT:**

**Chair Mike Fischer, Michael Schroeder, Jeff Carpenter, Julie Risser, Nancy Scherer, Kevin Staunton, Steve Brown, Arlene Forrest and Karwehn Kata**

**MEMBERS ABSENT**

**Floyd Grabel**

**STAFF PRESENT:**

**Cary Teague and Jackie Hoogenakker**

**I. APPROVAL OF THE MINUTES:**

The minutes of the May 26, 2010, Planning Commission meeting were filed with a correction.

Chair Fischer addressed the Commission and public and briefly explained the function of the Planning Commission. Fischer explained that Planning Commissioners are neighbors and volunteers, appointed by the Mayor and Council for a 3-year term with a term limit of 9-years. Continuing, Fischer said the Commission has two roles; legislative and quasi-judicial and briefly explained the role the Commission plays in each.

**II. NEW BUSINESS**

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<b>2010.0005</b>	<b>Amendment to the Final Development Plan Cypress Equities 7311 France Avenue South, Edina, MN</b>
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**Planner Presentation**

Planner Teague informed the Commission the applicant is requesting an amendment to the approved Final Development Plan to accomplish the following:

- Revise the approved renderings of Building C (the restaurant component). The revisions include adding sliding glass panels/doors to the outdoor patio area, a

new metal panel, and a fire place on the upper balcony. The stone on the fire place would match the existing stone on the building.

- Remove a condition from the original approval that did not allow outdoor amplification for restaurants. The intent of the request is to provide background music for customers in the outside dining areas.

In 2007, the City Council approved construction a 31,000 square foot single level retail building along France Avenue, a 22,000 square foot retail building with a 5 level parking ramp above, and a 32,960 square foot two-level retail/restaurant. Total square footage of both buildings is 86,000 square feet. Planner Teague asked the Commission to recall that they recommended denial of the Final Development Plan.

Continuing, Teague explained that the restaurant building has sat vacant since its construction. A restaurant called Pinstripes would now like to occupy the space. Pinstripes would have outdoor dining on the patio and second story balcony. These uses are permitted within the MDD-6 Zoning District.

Teague noted that concern was raised the last time this project was reviewed, and during the pre-development, developer neighborhood meeting regarding the outdoor eating areas. As a result, the applicant had previously agreed to the condition of approval regarding noise; therefore, no amplification or outside speakers was allowed for the development. However, the restaurant that would now like to go into this space wishes to have outside amplification of music, therefore, the applicant is requesting that that condition be eliminated from the approved plan.

Concluding, Teague recommended that the city council approve the amendment to the final development plan at 7311 France Avenue for Cypress Equities based on the following findings:

- 1) The proposal would meet the required standards and ordinances for a final development plan.
- 2) The sound study done by David Braslau Associates, Inc., concludes that a maximum sound level of 65 dBA (decibels) on the lower patio and upper triangular part of the upper deck and 60 dBA from the upper deck would be acceptable for the site to meet state law regarding noise.

Approval of the final development plan is also subject to the following conditions:

- 1) Building must be developed per the building elevations date stamped June 24, 2010.
- 2) Outdoor amplification is allowed for building C. Decibel levels may not exceed the state noise regulations.
- 3) A "Loudspeaker" permit must be obtained from the City of Edina, and meet all applicable conditions of the permit, including that the loudspeakers must be turned off at 10:00 pm.

- 4) All other conditions required in Resolution 2007-63 would continue to be in effect, unless otherwise stated above.

**Appearing for the Applicant**

Kirk Williams, Cypress Equities, Dale Schwartz, Pinstripes and David Braslau

**Applicant Presentation**

Mr. Williams addressed the Commission and explained Cypress has entered into a long term lease with Pinstripes, a high quality and entertainment restaurant. Pinstripes is very interested in opening and operating its business in a manner that is satisfactory to the community's interest as well as alleviating any concerns regarding noise issues in the neighborhood.

Continuing, Williams explained that in 2007 Cypress entered into a Final Development Plan with the City which contained several conditions. One of the imposed conditions was a requirement that "no amplification" is allowed for outdoor restaurants, which is referred to as condition #15. Pinstripes has a strong desire to play amplified music on its outdoor patios and balconies. The request at this time is to have Edina remove this condition by amending the Final Development Plan.

Williams told the Commission that Pinstripes and Cypress recently completed a Sound Level Assessment by David Braslau Association, Inc. to help determine, in a scientific manner, the affects to an activated balcony/patio. Concluding, Williams stated Pinstripes has requested that it be allowed to play amplified background music on the outdoor patio/balcony as long as the decibel level is below 65 at the property line.

Mr. Braslau explained to the Commission the methodology behind the sound assessment.

**Discussion**

Commissioner Carpenter asked if the proposed outdoor music for the restaurant would be similar to the piped in music heard around the park. Mr. Schwartz acknowledged that the restaurant is part of the park and the music played in the restaurants outdoor area would be considered background music. Schwartz said conversation is paramount, reiterating the music played in the outdoor area would be background, no rap, hard rock, etc. just high quality background music.

Chair Fischer commented that not all restaurants have outdoor dining with music. Mr. Schwartz agreed; pointing out that in the area there are a number of restaurants with outdoor seating and music; Cao Bella, Tavern on France and Salute. Both Cao Bella and Salute are located in close proximity to residential developments. Chair Fischer said his concern was if background music is played too loud, conversation gets louder to be heard over the music and tranquility is lost. Mr. Swartz said in is important for them to be a good neighbor, adding if music becomes an issue it can be turned

A discussion ensued on the allowed decibel levels and the threshold provided in the sound level assessment. It was noted there was a difficulty in obtaining levels, pointing out this area is an active park with canned music played throughout. Measurements were generated from a triangular portion of the upper deck and from the lower deck. Applicants stressed it is their goal to be an asset to Edina, and to the Centennial Lakes neighborhood.

Chair Fischer said what he was hearing from the proponents was that the music from this establishment shouldn't be heard across the lake, and if it is heard across the lake it would be turned down. Mr. Williams and Mr. Schwartz agreed with that comment.

Chair Fischer opened the public testimony.

#### **Residents that spoke in support of the project.**

A resident gave testimony in support of the request.

Kerry Kisling, 410 Coventry Place gave testimony in support of the request.

Girt Lavin, Coventry resident gave testimony in support of the request.

#### **Residents that spoke in opposition of the project.**

Brad Winter spoke in opposition of the request.

Sue Dixon, 802 Coventry Place, spoke in opposition of the request.

Myra Starkenberg, resident spoke in opposition of the request.

John Bohan, 800 Coventry Place, spoke in opposition of the request.

#### **Residents who spoke neutrally about the project (if they can't hear the music; no issue)**

Cindy Jarvis, 1016 Coventry Way

#### **Discussion**

Commissioner Brown said in his opinion this is a situation where reasonableness needs to fall in line. Brown pointed out the applicant has expressed their sincerity to abide by the conditions established by staff in support of removing condition #15. Brown stated he supports the request as submitted.

Commissioner Scherer said she can't support the request. She said this location is too unique because of its proximity to the park. Concluding, Scherer said in her opinion there is no compelling reason to rescind #15.

Commissioner Risser said she agrees with Commissioner Scherer, adding one issue (if #15 is rescinded) of concern would be with the type of music played.

Commissioner Brown said in this situation the onus is on the applicant and they have agreed to lower the music if it violates the conditions set forth by staff. There is no down side, reiterating the onus is on them. Commissioner Carpenter said he tends to agree with Commission Brown

Commissioner Risser acknowledged that the applicant appears sincere, adding maybe the Commission could add an additional condition of approval stating if the noise level is violated three times (during a specific period) the music is turned off.

Commissioner Forrest pointed out that Centennial Lakes is a mixed use development, adding the Commission may not need to specify 3-strikes; however language could be crafted to ensure compliance and enforcement.

Commissioner Staunton pointed out that this condition was added by the City Council, adding that presently there is an ordinance that stipulates noise standards and the means to enforce compliance with those standards.

Commissioner Schroeder noted that the Commission doesn't have the reasoning behind the Council's adding of condition #15, adding the Council should be the body that eliminates this condition, not the Commission.

Commission Brown said if the Commission would have received a concrete reason from the City Council for no amplification for this building that would be one thing, but at this time it appears the proponents are acting in good faith and have stated they would be willing to turn the music down if it becomes too loud. Concluding, Brown noted the City already has an ordinance in place regarding noise.

### **Motion**

**Commissioner Brown moved to recommend approval to amend the Final Development Plan for Cypress Equities condition #15; based on staff findings and subject to the following staff conditions.**

- 1. Building must be developed per the building elevations date stamped June 24, 2010.**
- 2. Outdoor amplification is allowed for building C. Decibel levels may not exceed the state noise regulations.**
- 3. A "loudspeaker" permit must be obtained from the City of Edina, and meet all applicable conditions of the permit, including that the loudspeakers must be turned off at 10:00 pm**
- 4. All other conditions required in Resolution 2007-63 would continue to be in effect, unless otherwise stated above.**

**Commissioner Staunton seconded the motion.**

Chair Fischer asked Commissioner Brown and Staunton how they would feel if the wording of the motion were to read “if noise from the amplification can be heard” pointing out both the residents and proponent have stated “if we can’t hear the music no problem” and “if they can hear it we will turn it down”.

Commissioner Brown said he feels it would be best to go with the conditions set forth in the staff report, adding that the proponents appear to be agreeable to “keeping” the noise down and working with the residents.

Commissioner Carpenter said he agrees with Chair Fischer and suggested the following amendment to the motion. **“amend the proposal to allow for amplification to such levels that are not audible to residents on the east side of the lake and if the noise is audible in a manner that can be substantiated by a representative of the City on three occasions that the right or original restriction would apply”.**

Commissioner Schroeder asked what happens if the proposed amendment is in conflict with what’s allowed in the Loudspeaker permit. What if the noise doesn’t violate the permit.

Chair Fischer suggested that the City Attorney look at the wording of the motion and amendment to ensure that it is correct and asked Commissioners Brown and Staunton if they would accept the friendly amendment to their motion. Both responded in the affirmative.

Mr. Knuston said he would review the motion and craft wording.

**Chair Fischer called for the vote; motion carried. 4-3**

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<b>2010.0001.10b</b>	<b>Final Rezoning, Final Plat and Final Development Plan The Waters Senior Living of Edina/Colonial Church 6200 Colonial Way, Edina, MN</b>
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Chair Fischer welcomed everyone acknowledging the interest many people have expressed for the project and established ground rules as follows:

1. City Planner, Applicant and neighborhood attorney are allotted ½ hour for their presentation.
2. Audience members that wish to speak would be allotted 3 minutes-speaking on a rotating basis of support for the project/opposition for the project.
3. Unlimited discussion Planning Commission

4. Applicant and neighborhood attorney would be allotted 5 minutes to summarize their position.

### **Appearing for the Applicant**

Jay Jensen, The Waters

### **Planner Presentation**

Planner Teague informed the Commission that Colonial Church has requested development of the south parking lot and vacant wooded portion of their site located at 6200 Colonial Way. The specific request is to build a 3-story, 139-unit senior convalescent home for the Waters Senior Living of Edina.

Planner Teague explained that the applicant has spent the last several months since the February 16, 2010 Preliminary Rezoning and Plan approval and the Comprehensive Plan amendment, meeting with residents and revising the plans in an attempt to address concerns of residents within the area, and concerns raised by the Planning Commission and City Council during the approval process.

Planner Teague presented a power point presentation depicting previous and current plans. Concluding Planner Teague said staff recommends approval of the Final Development Plan and Final Rezoning.

1. The senior housing development is consistent with the multiple family housing developments to the west.
2. The project would be buffered from the single-family residential area by the multiple-family housing to the west, Colonial Church and Countryside Park to the north, the fire station to the east, and Crosstown Highway 62 to the south.
3. The existing roadways would support the proposed project.
4. The proposed project would meet the following goals of the Comprehensive Plan:
  - a. Promote increased housing opportunities and a diversity of housing types by promoting the creative and innovative use of land designated for residential/commercial mixed-use while complementing the character of existing development and promoting transit use and other mobility alternatives.
  - b. Seek to accommodate the total projected 1,500 new households projected to locate in the City by the year 2030.
  - c. Promote a vision of community that is inclusive of a wide range of ages, incomes, and abilities and offers a wide range of housing options for Edina's residents. This broad vision of community is a cornerstone to promoting workforce housing that includes a wide range of housing prices and options, based on the principle that those who contribute to the community should have the opportunity to live here. Also, this housing vision strengthens and reinvigorates community institutions and makes the City an attractive destination for young families.
  - d. Increase the appeal of Edina's housing stock in order to attract new residents and retain current residents.

- e. Promote lifecycle housing to support a range of housing options that meet people's preferences and circumstances at all stages of life.
  - f. Acknowledge the interrelationship between land use and transportation, and support the expansion of existing transportation infrastructure-capacity through wise land use.
  - g. Facilitate the development of new housing and recreation facilities that accommodate the special needs of aging city residents.
  - h. Encourage infill/redevelopment opportunities that optimize use of city infrastructure and that complement area, neighborhood, and/or corridor context and character.
4. If affordable housing is included, it would assist in meeting the City's goal of 212 affordable housing units by 2030.

Approval is subject to the following Conditions:

1. The site must be developed and maintained in conformance with the following plans, unless modified by the conditions below:
  - Site Plan date stamped May 28, 2010.
  - Grading Plan date stamped May 28, 2010.
  - Landscape Plan date stamped May 28, 2010.
  - Building elevations date stamped May 28, 2010.
  - Building materials board as presented at the Planning Commission and City Council meeting.
2. The following must be submitted to the City before a building permit it is issued:
  - a. Submit a copy of the Nine Mile Creek Watershed District permit. The City may require revisions to the approved plans to meet the district's requirements.
  - b. Per Section 850.10. Subd. 3. B of the City's Zoning Ordinance, a letter of credit, performance bond or cash deposit must be submitted in the amount equal to 150% of the proposed landscaping.
3. The property owner is responsible for replacing any required landscaping that dies.
4. Compliance with the conditions required by the city engineer in his memo dated June 25, 2010.
5. Compliance with the conditions required by the fire marshal in his memo dated June 15, 2010.
6. All traffic mitigation measures as required by the Transportation Commission and traffic study must be followed.
7. Implementation of the applicant's Travel Demand Management Plan (TDM), as submitted.
8. Cross-easements must be established over the exterior parking lot of the senior housing project, to allow the church access to those spaces.
9. The project shall include 20% of the units for affordable housing. The detail of how that may be accomplished would be determined at a later date, subject to approval of the City Council.



### **Applicant Presentation**

Mr. Jensen addressed the Commission and thanked them and members of community for their support. Mr. Jensen delivered his presentation highlighting the changes made to the plan after preliminary approval. Mr. Jensen said since preliminary approvals two neighborhood meeting were held and with help of both the neighborhood, Commission and Council the following changes were implemented:

- The building was reduced from 4-stories to 3-stories at grade. The 4<sup>th</sup> floor was completely removed reducing the overall building height by eleven feet.
- Number of units reduced to 139 from 150 with fewer larger units.
- The front of the building elevation was modified to include more architectural features.
- The roof was redesigned to eliminate the gables and to be a complete hip roof system which also looks more residential.

### **Presentation by Attorney**

Mr. Rasmus addressed the Commission, adding he is present to represent a number of residents who reside in the Countryside neighborhood. Mr. Rasmus gave a brief history of how Countryside residents organized in response to this project. Mr. Rasmus reported that a petition opposing the proposal was signed by 217 people. Continuing, Mr. Rasmus said the building as proposed is just too large and is a commercial for profit venture. Mr. Rasmus stated the building if constructed as proposed will change the character and symmetry of the residential neighborhood. Mr. Rasmus explained that residents of the Countryside area do not oppose senior housing; however, as proposed it's not reasonable, it's too large. Continuing, Mr. Rasmus stated the use doesn't fit, reiterating it's a commercial venture in the middle of a residential neighborhood comprised of single family homes. Mr. Rasmus also noted when these same residents purchased their homes they didn't foresee that the City would allow a commercial development in their neighborhood. Mr. Rasmus stated that in his opinion the proposal is also inconsistent with the goals set forth in the Comprehensive Plan to preserve and protect Edina's residential neighborhoods. He also added that the infrastructure would also be compromised by this development. Mr. Rasmus pointed out that anyone who drives this stretch of Tracy Avenue knows how difficult it is to exit the Crosstown and turn onto Tracy Avenue. Safety should be carefully considered, it's an issue. Concluding, Mr. Rasmus said the proposed rezoning in his opinion is arbitrary (why not PSR) and raises the issue of spot zoning, adding the facts as presented by the developer don't support the projects approval. The proposed building is the wrong size in both scope and scale Mr. Rasmus encouraged the Commission to deny the request for a Final Development Plan and Rezoning.

Chair Fischer opened the public hearing at 10:30 p.m.

## **Public Testimony**

### **The following spoke in opposition to the proposal:**

Lawrence Kerzner, 5828 Jeff Place addressed the Commission

Delite Dick, 6213 Tracy Avenue addressed the Commission

Jody Burris addressed the Commission.

John and Jeanne St. Pierre, 6005 Arbor Lane addressed the Commission.

Erik Jensen, 5916 Olinger addressed the Commission.

Chip Howard, 5812 61<sup>st</sup> Street West addressed the Commission.

Marian Meyer, 5805 Jeff Place addressed the Commission.

Kent Gravelle 5609 Tracy Avenue addressed the Commission.

Dave Dodge, 6117 Sherman Circle addressed the Commission.

Eileen O'Shaughnessy, 4216 Sunnyside Road addressed the Commission.

Elizabeth Beer, 5804 Jeff Place addressed the Commission.

Harvey Havir, 6108 Tracy Avenue addressed the Commission.

Kevin McCoy, 5809 Jeff Place addressed the Commission.

Kevin and Kristina Bohrer, 5605 Dale addressed the Commission.

Manny Huesbou, resident of 9-Mile Village townhouse development.

Jed Jenkins, 5708 Olinger Boulevard addressed the Commission.

Dorothy Kerzner, 5828 Jeff Place Addressed the Commission.

Ray Voss, 5716 Benton Avenue addressed the Commission.

Sally Mays, 529 Countryside Road, addressed the Commission.

Judith Rodgers, 6100 Arbour Lane, addressed the Commission.

Nancy Huseby, 5904 Arbour Lane, addressed the Commission.

Barbara Hoganson, 5825 Jeff Place addressed the Commission

**The following spoke in support of the proposal:**

Mike Lewis formerly of Edina now residing in Eden Prairie addressed the Commission.

Robert Schulze, 6800 Paiute Trail addressed the Commission.

Resident 9-Mile Creek townhouse development addressed the Commission.

Ted Springer, 6300 Pheasant Court addressed the Commission.

Peter Bundel, resident of 9-Mile Village townhouse development addressed the Commission.

Gene Holderness, 6807 Dovre Drive addressed the Commission.

Nancy Frykman, 6026 Schaefer Road addressed the Commission.

Michael Hime, 5300 Chantry Road addressed the Commission.

Mark Hugo, Colonial Church Member addressed the Commission.

**Commissioner Brown moved to close the public hearing. Commission Scherer seconded the motion. All voted aye; motion carried.**

**Discussion**

Chair Fischer thanked everyone for sharing their information, adding from the testimony so far he believes there are three main issues; building height, mass and traffic. Chair Fischer asked Chuck Rickart, from WSB (Edina's traffic consultant) to address traffic.

Mr. Rickart addressed the Commission and explained his analysis of the project was based on the 150-units originally proposed. Mr. Rickart said the standards for conducting a traffic generation study comes from the Institute of Transportation Engineers. This study includes deliveries, employees, and visitors. Based on the study the report concluded that 490+ trips would be generated in a day, adding in relationship to what's there today it's considered a small increase. Mr. Rickart noted that as you "get away" from the "site" traffic spreads out. Mr. Rickart said the study also found traffic impact is minimal because it's incremental. Mr. Rickart explained that traffic fluctuates daily by roughly 10%. Concluding, Mr. Rickart stated in his opinion the project as proposed would have little impact on the surrounding traffic patterns. Mr. Rickart said the one concern he had focused on the area between the highway ramps and Colonial Way (area in front of the fire hall) from vehicles that want to turn left going northbound. He pointed out that traffic could back up at this point. Chair Fischer

thanked Mr. Rickart adding that one safety concern he noted was the site lines off Crosstown because of the bridge rail. Mr. Rickart said he agrees with that; however that traffic and sight lines are two separate issues, adding the City should present this concern to Mendota because they control the entrance/exit ramps.

Commissioner Forrest questioned if the traffic study was recalculated to include the high school traffic. Mr. Rickart said he would have to defer to the applicant's traffic engineer on that question. He noted "peak" times are usually set for am and pm traffic when people are traveling to and from work.

Chair Fischer asked City Engineer Wayne Houle if he believes the infrastructure (sewer & water) is capable of handling this development. Mr. Houle responded when an application for a development comes before the City that impacts water and sewer the City has a tool that uses two models along with consultants (SEH) that study what impact the development would have on the infrastructure. Houle referred to a memo from Jesse Struve, Utility Engineer indicating that the existing water main has the capacity to provide water service, irrigation, and fire flow protection while maintaining the same level of protection to the City. Barr Engineering reviewed the existing sanitary sewer system which also indicated there is sufficient capacity in the existing sanitary sewer lines to accommodate this development.

Commissioner Staunton noted that there was some testimony about the potential for a bike/pedestrian trail in this area and asked how that would interface with the project. Mr. Houle responded that the Park and Recreation Director John Keprios represents the City on this project; however, House would "sign off" on any bike/pedestrian trail anywhere in the City. Houle stated the City would ensure that all trails, bike and/or pedestrian are safe, adding the City follows specific criteria.

Commissioner Scherer noted that another question that was brought up during the public testimony was the waiver of the park dedication fee and asked Planner Teague "what that's about?" Planner Teague responded that anytime a property is subdivided a park dedication fee is required. At this time the applicant has requested that the City waive this fee which is left up to the Council to decide. Teague explained that the criteria for parkland dedication fees recently changed and if were applied as dictated the parkland dedication fee for this project would be over 700 thousand dollars. Teague also noted that the applicant is not seeking a final plat at this time; therefore no park dedication fee.

Chair Fischer asked Planner Teague about height differentials for the proposed building, adding it was mentioned that building height is between 47-52 feet. Fischer also noted that some residents have referred to the building as a high-rise. Concluding, Chair Fischer asked the permitted height of a single family home. Planner Teague responded that the maximum height of a single family home is 40-feet. Chair Fischer said when building height is discussed one has to make sure everyone is talking about the same thing.

Commissioner Schroeder said one point that he would like clarified is that the 200,000 square feet that has been mentioned for the project is the total square footage of the proposed building not the buildings footprint.

Commissioner Staunton commented “getting back to building height issue” that he would like Planner Teague to further clarify building height, adding he heard Planner Teague mention a building height of 43-feet. Planner Teague responded that Commissioner Staunton is correct; the average building height of the proposed building is 43-feet. Continuing, Teague explained by ordinance building height is measured from the average of the existing grade at the front building line to the mid-point of the highest pitch of the roof.

Chair Fischer asked City Attorney, Roger Knutson if this was considered “spot zoning”. Mr. Knutson said that to the best of his recollection the term “spot zoning” hasn’t been used in 20-30 years. Continuing, Knutson said spot zoning is considered irrational zoning, adding that in a sense “you flip a coin” and there is no basis for the rezoning, it’s totally irrational. Knutson said in he doesn’t believe that is the case in this situation. Chair Fischer asked Mr. Knutson if approved was it possible that a precedent would be established. Knutson responded there would be no legal precedent established if approved.

Commissioner Forrest asked the designation for the subject site in the Comprehensive Plan. Planner Teague responded that the designation for this site is guided in the Comprehensive Plan as high density residential. Teague noted that to the west there is medium density residential. Commissioner Forrest pointed out that churches are typically located in an R-1 zoning district and are permitted by conditional use, adding if there were potential problems or detriments with a project the Planning Commission could place limits on the project. Teague agreed, adding conditions of approval can be placed on a project and are.

Chair Fischer raised the issue that a “larger” version of this proposal was approved by both the Commission and Council and asked if once approved is the Commission legally bound to approve the project; albeit a smaller project. Mr. Knutson said if denied the Planning Commission would have to establish clear findings to support their reversal.

Commissioner Carpenter asked Mr. Jensen how the market for this “product” is established. Mr. Jensen replied the market is usually established around a 3-mile perimeter of the site. Continuing, Mr. Jensen explained they do their own analysis and also use the firm Larsen and Allen for additional analysis. Jensen added with regard to prices per unit that assisted living facility prices are generally very competitive. Carpenter commented that during the testimony it was mentioned that the Eden Prairie facility had vacancies. Mr. Jensen responded that that is correct, adding in assisted living facilities there is turnover; and at any given moment there are vacancies. Mr. Jensen said a 5% vacancy rate is normal. Carpenter asked Mr. Jensen for clarification on the square footage of both the church and the proposed facility. Mr. Jensen

responded he believes the footprint of the church is around 80,000 square feet and the first floor of the assisted living facility is 70,000 + square feet. Mr. Jensen noted that for the assisted living facility the total square footage is larger. Carpenter asked Mr. Jensen to comment on the convenience store. Mr. Jensen responded that the convenience store is only for the residents of the building.

Commissioner Forrest noted that one of the conditions discussed was affordable housing and asked Commissioners how firm they were on that issue. Commissioner Scherer said that in her opinion in our advisory capacity the Commission could recommend a percentage and have the Council proceed from there. Commissioner Schroeder noted that the Commission already recommended (as part of the preliminary approval) a quantity and percentage, and an implemented traffic management plan. He said it would be up to the Council to agree with those previous conditions and establish criteria.

A discussion ensued on landscaping and its importance to the project.

### **Final Comments applicant/neighborhood attorney**

Mr. Jensen said he would like to make the following six points in closing:

1. The project as submitted meets all ordinance requirements and no variances are requested.
2. The Waters listened at the neighborhood meetings and at the Commission and Council meetings and made changes accordingly which resulted in a better project. These changes were not easy.
3. The Waters knows about senior housing, and is active in the assisted living facilities community. We know how to operate these types of facilities.
4. Housing of this type is needed statistically. Presently in Edina 10,000 residents are over 65 years of age.
5. 75 percent of the new residents will come from the nearby area and will be affordable to the Countryside residents. The Waters will be a good neighbor and when the project is complete and the trees and landscaping planted an asset to not only the community but neighborhood. Mr. Jensen acknowledged that he grew up in the Countryside neighborhood.
6. The project offers another choice for residents providing them with the opportunity to remain in their community.

Concluding, Mr. Jensen said he believes the project is good and that The Waters will be a good neighbor.

Mr. Rasmus addressed the Commission and stated that he appreciates everyone's patience, adding he has four points to make:

1. There is no evidence that the project benefits the countryside neighborhood. It's tempting to conclude that there is a buffer, however, the buffer doesn't make it

OK. Light pollution from a three story project and the loss of sight lines plus additional traffic are burdens the residents of this neighborhood will face, and it's not fair to burden these residents to benefit others.

2. No proof that the number of units suggested is necessary. Other smaller projects do work.
3. Traffic – the issue is going to be the people coming to and going out of this project that will focus the traffic at an already difficult area at 62 and Tracy – Rush hour and school traffic are an issue.
4. The size and scope and the box shape of the proposed building doesn't fit with the character and symmetry of the neighborhood or match the church itself. This will be different, no match.

Thank you.

### **Discussion**

Commissioner Brown thanked everyone for the respectful dialogue, adding the Countryside neighborhood has been very thoughtful and organized. Brown stated he is a 49-year resident of Edina and has seen a number of changes over those 49 years. Brown noted that he was also a member of the Comp Plan Task force adding he listened with an open mind to the discussion to understand the neighborhood and their concerns. Continuing, Brown said in his opinion the charge of the Planning Commission is to make decisions to serve the broader community. Brown submitted a visual guide he created to help him understand the neighborhood and those opposed to the proposal, adding this was just his visualization interpretation from the information he had at the time. Brown said at this time one comes to “that fork in the road” adding that respectfully he doesn't believe this project is in the middle of a neighborhood, it isn't spot zoning and the project isn't a commercial development it's a residential property. Brown said one of the goals of the Comprehensive Plan was to provide senior housing. Brown concluded that he supports the project as submitted.

Commissioner Risser commented that the question of what a neighborhood is has been present throughout this evening. Risser said she holds a different perspective on the information heard this evening. Risser said to her it was important to keep in mind that the Commission was looking at a project that required the Comprehensive Plan to be amended and that to her is a big deal. Continuing, Risser said with all due respect to the City Attorney that she isn't convinced that this isn't spot zoning. Risser said concern was also expressed over precedent setting. Concluding, Risser said if approved residents would be left to wonder what the City's zoning means and introduces ambiguity. Residents should be able to count on the zoning map and the map should be paid attention too. Risser stated she opposes the project as submitted and the City needs to take a step back and think about what they are doing.

Commissioner Schroeder reminded the Commission that the action taken by the Commission and Council was to approve a Guide Plan Amendment, adding the

Comprehensive Plan was not amended. Schroeder said the map was changed not the plan.

Commissioner Carpenter asked Planner Teague if there are other parcels in Edina where a project like this could go, or is this zone parcel by parcel designation. Planner Teague responded that an assisted living facility like the one proposed can be located in the PRD-4, PSR-4 and PRD-5 and PSR-5 zoning districts; however, to the best of his knowledge there are no vacant or unoccupied parcels available with this zoning.

Commissioner Kata said he recalls from past discussions that financial viability isn't considered or part of the purview of the Commission, adding many have expressed their concern that the project may not be viable. Chair Fischer responded that financial viability is not something the Commission usually looks at unless the project is seeking some type of tax increment funding; however, those questions and concerns do come up. Chair Fischer told Commissioner Kata he was correct in his assumption that financial viability isn't part of the purview of the Commission.

Commissioner Forrest stated that she honestly loves the idea of this project; however, on the other hand is haunted by the fact that there is a zoning code and residents rely on that code.

Commissioner Staunton stated that this process has been a great exercise in participation. Staunton said this project complies with goals that were established in the Comprehensive Plan but the Comprehensive Plan also is very protective of the character and symmetry of Edina's single family neighborhoods. Staunton said he wrestles with balancing both. Staunton said the testimony tonight has demonstrated that residents do not object to the use, but object to the size. Staunton noted that regardless of the size of the building delivery trucks, employees and visitors will come. The testimony from residents that support the use indicates the project is on the right track; however, it all appears to come down to the size and scale of the proposed building. Commissioner Staunton said he can't comment on "what's the right size"; however the Commission can ensure that the development does not negatively impact the neighborhood. Staunton said to help make his decision he must rely on the experts in transportation and infrastructure and they have indicated that impact as a result of this building would be minimal and he was in no position to second guess them. Staunton said a lot for him came down to the trees and vegetation which are important to retain and re-landscape. Staunton noted regardless of how one defines the neighborhood there is a major freeway to the south, 9-mile village to the west, a fire station to the east and a buffer of trees and City park to the north. Staunton reiterated that trees and landscaping was very important and on balance that kind of screening and buffer would afford the neighborhood some protection. Staunton said in balance that he falls on the side of supporting this project. Concluding, that he supports the project as proposed with the findings and conditions established in the staff report.

**Commissioner Brown moved to recommend Final Development Plan and Final Rezoning R-1, Single Dwelling Unit District to PRD-5 approval based on staff**



**findings and subject to staff conditions on pages 11 through 14. Commissioner Scherer seconded the motion.**

Chair Fischer thanked everyone for their participation, adding that all opinions are appreciated and respected. Fischer said to him it was a difficult task deciding if this was the right place for this project. Is this location the center of a neighborhood or edge?, adding its planning sense for higher density uses to be located along major roadways, buffering Edina's single family homes. Fischer noted this location was also adjacent to a city park and fire hall. Fischer pointed out that in Edina there are at least three parks in the community that are near high density developments with the parks becoming their backyards. Continuing, Fischer said in his opinion, because of the buildings location traffic impact was minimized. Fischer acknowledged there would be impact; however the goal would be to keep the impact as close to the highway as one can, pointing out emergency services and a church are also adjacent to the proposed building adding important support in close proximity. Fischer noted there was much discussion on building height and mass; however, because of the location and the existing and added landscaping impact is reduced. Fischer said he heard comments questioning "if it's fair for this development to burden this neighborhood"; adding it's not always just about neighborhoods. The goal of the City and all its residents is to figure out how to develop while protecting the City's single family neighborhoods and do both. Fischer noted that Mr. Rasmus asked "what's the benefit" this building would have for the neighborhood; Fischer stated there will be benefit. Fischer explained that he lives in the Cornelia neighborhood and a similar project was constructed in his neighborhood (also on a church site), adding this building acts as a transition at the edge of his neighborhood, reiterating he believes the building is an asset. Scout troops, neighbors and other groups all interact with the facility and the neighborhood appreciates what Sunrise brings to their neighborhood. In conclusion Fischer said what struck him was a letter from a resident, mentioning how much Colonial Church was appreciated. Fischer said in speaking with many of the area neighbors at first Colonial Church wasn't well received and now the church is part of the neighborhood and community; a beautiful asset. Fischer said it is his hope if this project is approved that the neighborhood will feel the same about this building and it becomes an asset to the neighborhood and community.

Chair Fischer called for the vote.

**Commissioner Schroeder said he would like to add a friendly amendment to the motion suggesting that the following be added as findings:**

- 1. The site location offers a reasonable transition between a major arterial roadway, a city park and R-1 residential neighborhood.**
- 2. The potential traffic impacts are concentrated near a major arterial roadway.**
- 3. The scale and mass will be of limited impact to the single family neighborhood by virtue of distance.**

Ayes; Carpenter, Scherer, Staunton, Schroeder, Brown, Forrest, Fischer. Nay; Risser. Motion carried 7-1.

**III. COMMUNITY COMMENT:**

None.

**IV. INTERGOVERNMENTAL BUSINESS:**

Chair Fischer acknowledged back of packet materials.

**V. NEXT MEETING DATE:**

July 28, 2010

**VI. ADJOURNMENT:**

The meeting was adjourned at 1:40 AM

Submitted by

*Jackie Hoogenakker*